

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOHN D. DAVENPORT and
BETTY DAVENPORT
47 Stockton Drive
New Castle, DE 19720

v.

KNIGHT TRANSPORTATION,
INCORPORATED
5601 West Buckeye Road
Phoenix, Arizona 85043

and

TERRY HAMPTON DAVENPORT
9339 Parkwood Drive
Charlotte, North Carolina 78214

SUMMONS IN A CIVIL CASE

CASE NO.

676

COMPLAINT
JURY TRIAL DEMANDED AS TO ALL DEFENDANTS

PARTIES

1. Plaintiffs, John D. Davenport and Betty Davenport, are individuals residing at 47 Stockton Drive, New Castle, Delaware 19720.
2. Defendant, Knight Transportation, Incorporated, is an Arizona corporation with a corporate headquarters located at 5601 West Buckeye Road, Phoenix, Arizona 85403.
3. Defendant, Terry Hamilton Davenport, is an individual residing at 9339 Parkwood Drive, Charlotte, North Carolina 78214.
4. At all times material to this cause of action, defendant Terry Hamilton Davenport was an employee of defendant Knight Transportation, Incorporated, and was acting within the course and scope of his employment.

JURISDICTION

5. Plaintiffs hereby incorporate paragraphs 1 through 4 as if set forth herein.

6. With respect to the claims against defendant Knight Transportation, Incorporated , and defendant Terry Hamilton Davenport, jurisdiction is conferred pursuant to 28 U.S.C. § 1332(a) as there is diversity of citizenship and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

7. The appropriate venue is the United States District Court for the District of Delaware pursuant to 28 U.S.C. § 1402(b) as this is the judicial district where the plaintiffs reside.

COUNT I

8. Plaintiffs hereby incorporate paragraphs 1 through 7 as if set forth herein.

9. On November 4, 2004, plaintiff, John D. Davenport was operating a tractor twin trailer in a Southerly direction on Interstate 85 in Dinwiddie, Virginia and was stopped in traffic near Exit 460.

10. On the date and at the time and place aforesaid, defendant, Terry Hamilton Davenport, was operating a tractor trailer owned by defendant Knight Transportation, Incorporated, in a Southerly direction on Interstate 85, and drove his tractor trailer into the rear of plaintiff's vehicle at a high rate of speed and with such force as to propel plaintiff's vehicle 75 feet into the rear of a third vehicle that had been stopped in front of plaintiff's vehicle.

11. The negligence of defendant, Terry Hamilton Davenport, was the proximate cause of the collision between defendant Davenport's vehicle and plaintiff's vehicle, and was also the proximate cause of the collision between the plaintiff's vehicle and the vehicle in front of plaintiff's vehicle, in that defendant Davenport:

- (a) failed to leave a safe and reasonable distance between his vehicle and plaintiff's vehicle;
- (b) failed to give full time and attention to the operation of his vehicle;
- (c) failed to maintain a proper lookout while operating his vehicle;
- (d) operated his vehicle at a speed greater than that which was reasonably prudent;
- (e) failed to maintain proper control of his vehicle;
- (f) operated his vehicle in a careless or imprudent manner; and
- (g) failed to use due care to avoid a collision with plaintiff's vehicle.

12. As a direct and proximate result of the negligence of defendant, Terry Hamilton Davenport, plaintiff, John D. Davenport, sustained both temporary and permanent injuries which have caused him, and will continue to cause him, great pain and agony, and mental anguish, and have prevented him and will continue to prevent him from enjoying his hobbies, adocations, and the simple pleasures of daily living.

13. As a further direct and proximate result of the negligence of defendant, Terry Hamilton Davenport, plaintiff, John D. Davenport, has been obliged to expend various sums of money for medicine and medical treatment while endeavoring to treat and cure himself of his

injuries, and he will be obliged to expend additional sums of money for the same purposes in the future.

14. As a further direct and proximate result of the negligence of defendant, Terry Hamilton Davenport, plaintiff, John D. Davenport, has suffered and will to continue to suffer a reduction in his earning capacity.

15. As a further direct and proximate result of the negligence of defendant, Terry Hamilton Davenport, plaintiff, Betty Davenport was for a period of time and probably will in the future be deprived of the comfort, society, companionship, assistance, support and consortium of her spouse, John D. Davenport, all of which has been and will continue to be to her great financial, physical, psychological and emotional damage.

16. At all times relevant hereto, defendant, Terry Hamilton Davenport, was acting as agent, servant and employee and in the course and scope of his employment with defendant Knight Transportation, Incorporated, or was in the alternative an ostensible agent or borrowed servant. Under the doctrine of respondeat superior, defendant Knight Transportation, Incorporated is liable for the tortious conduct of its agent, servant, or employee, Terry Hamilton Davenport.

WHEREFORE, plaintiffs demand judgment against defendants jointly and severally, in an amount which will reasonably compensate plaintiffs for the injuries and damages sustained, plus interest and the costs of this action.

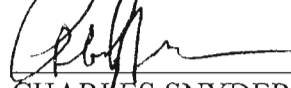
COUNT II

17. Plaintiffs hereby incorporate paragraphs 1 through 16 as if set forth herein.

18. Defendant Terry Hamilton Davenport acted with a reckless disregard of the plaintiff's well being, thus providing a basis for an award of punitive damages.

WHEREFORE, plaintiffs demand judgment against the defendants, jointly and severally, for compensatory damages, punitive damages, and costs of suit.

CHARLES SNYDERMAN, P.A.



CHARLES SNYDERMAN, ESQUIRE

Del. Bar I.D. No. 426

5301 Limestone Road, Suite 214

Wilmington, DE 19808

(302) 239-1140

Attorney for Plaintiffs

DATED: November 2, 2006

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

John D. Davenport and Betty Davenport

DEFENDANTS

Knight Transportation, Incorporated
and Terry Hampton Davenport

(b) County of Residence of First Listed Plaintiff New Castle County

(EXCEPT IN U.S. PLAINTIFF CASES) DE

County of Residence of First Listed Defendant

Maricopa, AZ
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Charles Snyderman, Esquire
5301 Limestone Road, Suite 214

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☐ 3 Federal Question
(U.S. Government Not a Party)☒ 2 U.S. Government Defendant☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box Only)

(For Diversity Cases Only)

Citizen of This State

PTF DEF
☒ 1 ☐ 1Incorporated or Principal Place
of Business in This State

Citizen of Another State

☐ 2 ☒ 2Incorporated and Principal Place
of Business in Another StateCitizen or Subject of a
Foreign Country☐ 3 ☐ 3

Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT

- ☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment
 & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted
 Student Loans
 (Excl. Veterans)
☐ 153 Recovery of Overpayment
 of Veterans' Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

- ☒ REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

- PERSONAL INJURY**
☐ 310 Airplane
☐ 315 Airplane Product
 Liability
☐ 320 Assault, Libel &
 Slander
☐ 330 Federal Employers'
 Liability
☐ 340 Marine
☐ 345 Marine Product
 Liability
☒ 350 Motor Vehicle
☐ 355 Motor Vehicle
 Product Liability
☐ 360 Other Personal
 Injury

- PERSONAL INJURY**
☐ 362 Personal Injury -
 Med. Malpractice
☐ 365 Personal Injury -
 Product Liability
☐ 368 Asbestos Personal
 Injury Product
 Liability
PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal
 Property Damage
☐ 385 Property Damage
 Product Liability

CIVIL RIGHTS

- ☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/
 Accommodations
☐ 444 Welfare
☐ 445 Amer. w/Disabilities -
 Employment
☐ 446 Amer. w/Disabilities -
 Other
☐ 440 Other Civil Rights

PRISONER PETITIONS

- ☐ 510 Motions to Vacate
 Sentence
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition

FORFEITURE/PENALTY

- ☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure
 of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs.
☐ 660 Occupational
 Safety/Health
☐ 690 Other

LABOR

- ☐ 710 Fair Labor Standards
 Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting
 & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc.
 Security Act

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))
FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff
 or Defendant)
☐ 871 IRS—Third Party
 26 USC 7609

OTHER STATUTES

- ☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce
☐ 460 Deportation
☐ 470 Racketeer Influenced and
 Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat. TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/
 Exchange
☐ 875 Customer Challenge
 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information
 Act
☐ 900 Appeal of Fee Determination
 Under Equal Access
 to Justice
☐ 950 Constitutionality of
 State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original
Proceeding☐ 2 Removed from
State Court☐ 3 Remanded from
Appellate Court☐ 4 Reinstated or
Reopened☐ 5 Transferred from
another district
(specify)☐ 6 Multidistrict
Litigation☐ 7 Judge from
Magistrate
JudgmentAppeal to District
Judge from
Magistrate
Judgment

VI. CAUSE OF ACTION

Brief description of cause:

Motor Vehicle Collision

VII. REQUESTED IN
COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ NoVIII. RELATED CASE(S)
IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/2/06

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 06-676-

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 3 COPIES OF AO FORM 85.

11-2-06

(Date forms issued)



(Signature of Party or their Representative)

OLIVIER S. J. DEAN

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action